THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 4943 of 2006

Dated: 14.3.2006

Between:

Kavitha Complex,

Represented by its Managing

Director Ashok Kumar.

..... PETITIONER

AND

1. The Director of Mines and Geology,

8th Floor, BRK Building, Tank Bund

Road, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 4943 of 2006

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ORDER:

The writ petition is filed questioning the order of the 3rd respondent-Assistant Director of Mines and Geology, Nizamabad, dated 16.2.2006 by way of issuing a notice No.1241/RV/2000, requesting the petitioner to pay an amount of Rs.4,60,000/- as levied by the Regional Vigilance & Enforcement Office, Sangareddy for building material used in construction of Kavitha complex.

Heard the learned Counsel for the petitioner as well as the learned Government Pleader for Mines and Geology.

The learned Counsel for the petitioner contended that the competent authority to levy seigniorage charge is the Assistant Director of Mines and Geology, but in the instant case, the Assistant Director has not issued any show cause notice and issued impugned notice directly demanding the petitioner to pay the said amount and therefore, the impugned notice is illegal and against the principles of natural justice. It is further contended that the notice requiring the petitioner to furnish information as to the material for the construction of the complex has been issued by the Vigilance, but he has no power or authority to levy the seigniorage charges and it is the Assistant Director alone to take appropriate action. It is further stated that in spite of the petitioner furnishing the information to the Regional Vigilance and Enforcement Officer, without taking into consideration of the same, the inspection

has been conducted in the year 2002-2003 and the levy has been made illegally.

However, in view of the fact that an appeal lies against the impugned order under Rule 35 of the A.P. Minor Mineral Concession Rules, 1966 before the Director of Mines and Geology, within two months from the date of communication of the said order, without expressing any opinion on the merits of the case, I feel it appropriate to direct the petitioner to avail such an alternative remedy.

Accordingly, this writ petition is disposed of directing the petitioner to avail the alternative remedy by way of an appeal under Rule 35 of the Act within a period of two (2) Weeks from the date of receipt of a copy of this order.

It is made clear that till the filing of such an appeal, the impugned order is stayed and the respondents are directed not to collect the said demanded amount pending disposal of the appeal.

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V.ESWARAIAH.J

Dt. 14.03.2006

Nn.